

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CALVIN ROUSE (a.k.a. ABDUR
RASHID KHALIF),

Plaintiff,

v.

BERNIE WARNER, STEVE
SINCLAIR, GARY PIERCE, VIVIA
GAINS, JIMMY GUZMAN, SGT.
COUGHRON, and C/O ZARAGOZA,

Defendants.

NO: 12-CV-5092-TOR

ORDER DENYING MOTION FOR
RECONSIDERATION

BEFORE THE COURT is Plaintiff's "Motion for Reconsideration and Amend[ment] of Judgment" (ECF No. 16). Plaintiff asks the Court to reconsider its October 3, 2012 Order dismissing his Second Amended Complaint with prejudice (ECF No. 14) pursuant to Federal Rule of Civil Procedure 59(e).

Motions for reconsideration serve a limited function. "The major grounds that justify reconsideration involve an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest

1 injustice.” *Pyramid Lake Paiute Tribe v. Hodel*, 882 F.2d 364, 369 n. 5 (9th Cir.
2 1989) (quotation, citation and modification omitted). Such motions are not the
3 proper vehicle for offering evidence or theories of law that were available to the
4 party at the time of the initial ruling. *Fay Corp. v. Bat Holdings I, Inc.*, 651
5 F.Supp. 307, 309 (W.D. Wash. 1987).

6 In the instant case, Plaintiff has neither alleged that there has been an
7 intervening change of controlling law nor offered newly discovered evidence that
8 would justify re-examining the issue. Thus, the only remaining question is
9 whether the Court should alter its prior ruling in order to “correct a clear error or
10 prevent manifest injustice.” *Pyramid Lake*, 882 F.2d at 369 n. 5.

11 In his motion for reconsideration, Plaintiff again offers conclusory
12 allegations of retaliation. The Court liberally construed the Second Amended
13 Complaint in the light most favorable to Plaintiff and found that he failed to
14 present facts showing actual injury to his access to the court under *Lewis v. Casey*,
15 518 U.S. 343, 351-52 (1996), or facts sufficient to invoke procedural due process
16 protections under *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995). By merely
17 asserting that all Defendants acted under color of state law, Plaintiff has failed to
18 state a claim upon which relief may be granted. Again, Plaintiff did not support his
19 conclusory allegations with facts showing how any identified Defendant deprived
20 him of a constitutional right.

1 Accordingly, **IT IS ORDERED** that Plaintiff's Motion for Reconsideration,
2 ECF No. 16, is **DENIED**.

3 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
4 Order and forward a copy to Plaintiff. The file shall remain closed. The Court
5 certifies that any appeal of this decision would not be taken in good faith.

6 **DATED** this 24th day of October 2012.

7 *s/ Thomas O. Rice*

8 THOMAS O. RICE
9 United States District Judge